REMARKS

Claims 2-6, 8, 9, 20, and 21 are currently pending, claims 20 and 21 being independent claims. The Examiner has rejected claims 2-6, 8, 9, 20, and 21 under 35 U.S.C. § 103(a) and claims 3, 4, 8, 9, and 20 under 35 U.S.C. § 112, second paragraph.

Claims 2-6, 8, 9, and 20 have been amended. No new matter has been added. In view of the above amendments and for the reasons provided below, the Applicant respectfully traverses the grounds for rejection and requests withdrawal thereof.

For explanatory purposes only, FIGs. 1-7e accompany this Amendment and are discussed below.

SECTION 112, SECOND PARAGRAPH REJECTIONS

Claims 3, 4, 8, 9, and 20 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 3, 4, 8, 9, and 20 have been amended. Accordingly, the grounds for rejection are now believed to be moot. Withdrawal of the grounds for rejection is respectfully requested.

SECTION 103(a) REJECTIONS

Claims 2-6, 8, 9, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Number 6,000,571 to Brooks ("Brooks") in view of U.S. Patent Number 3,815,778 to Martin ("Martin") and U.S. Patent Number 7,273,155 to Gray ("Gray"). The Applicant respectfully traverses the grounds for rejection.

The invention as claimed recites a trash receptacle that includes a closed-end, tubular container and a closed-end, tubular

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liner. The liner is structured and arranged to form an annular space between the outer wall of the liner and the inner wall of the container when the liner is inserted in the container. Moreover, the liner is structured and arranged to receive a trash bag. In pertinent part, the liner also includes a plurality of apertures along the wall of the liner, to provide communication between the interior of the liner and the annular space.

An exhaust aperture is provided through the container. Means for withdrawing air (the "means") from the annular space and from the interior of the liner via the plurality of apertures are provided in the exhaust aperture. More particularly, the means are adapted to reduce air pressure in the annular space and the interior of the liner, to forcefully deploy a plastic trash bag against the (inner wall of the) liner.

During an office interview conducted on February 27, 2009, the Applicant presented a video showing the present invention. Figures 1-7e accompanying this Amendment will be used to show what the Examiner observed during the office interview and to illustrate the contrast between the efficacy of the invention as claimed and that of the prior art, i.e., Gray. Accompanying Fig. 5 shows a container having an air exhaust system as taught by Gray. Fig. 6a shows a plastic bag disposed within the container. Figs. 6b and 6c show the effect of the partial vacuum on the bag. The force of the vacuum draws the plastic bag down along the inner wall of the container, eventually breaking the seal.

In contrast, Fig. 7a shows the container and liner taught by the invention as claimed. Fig. 7b shows a plastic bag disposed within the liner. Figs. 7c-7e show the effect of the vacuum on the bag. Fig. 7d shows the bag deploying and Fig. 7e shows the bag fully drawn into the liner. The effect of the vacuum on the

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inner wall of the liner prevents the vacuum from drawing the plastic bag down along the inner wall.

The Examiner correctly cites the *KSR* decision. However, the figures presented and discussed above demonstrate that the invention as claimed does not "simply arrange[ ] old elements with each performing the same function it had been known to perform" and, moreover, does not "yield[ ] no more than one would expect from such arrangement". Consequently, the claimed combination is not obvious!

For example, Brooks teaches a trash receptacle having an inner portion (12) and an outer portion (11). The Examiner incorrectly provides that Brooks does not teach a plurality of apertures. On the contrary, Brooks teaches a plurality of apertures 24 in the inner base (16) of the inner portion (12) and vent holes (28) in the depression (25). The stated purposes of these apertures (24) and vent holes (28) are, respectively, for easy removal of the trash bag and to introduce a scent into the inner portion (12). See, e.g., Brooks, col. 4, lines 23-30 and lines 56-58.

The invention as claimed solves a problem having to do with inserting a trash bag, not removing it. Furthermore, the invention as claimed draws air out of the inner liner rather than to introduce (scented) air into the liner. Consequently, "old elements" are not performing the same function as taught by Brooks and do not yield what one would expect by reading Brooks.

Ignoring the plurality of apertures in Brooks and combining Martin to Brooks as the Examiner suggests, Martin's rigid trash receptacle (11) replaces Brooks' inner portion to provide a plurality of apertures (15) in Martin's main body (14) rather than apertures in Brooks' inner base. However, the stated purposes of

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Martin's apertures include allowing air trapped between the main body (14) and the trash bag (25) to escape as the bag is filled with garbage and to facilitate removal of the bag. See, e.g., Martin, col. 2, lines 23-26 and 65-67; and col. 3, lines 11-16.

Here again, the invention as claimed solves a problem having to do with inserting a trash bag, not removing it. Furthermore, the invention as claimed forcefully draws air out of the inner liner to make the trash bag deploy against the inner wall of the line, whereas the trash bag in Martin is "deployed" only when and as it is filled with garbage. Consequently, "old elements" are not performing the same function as taught by Martin and Brooks and do not yield what one would expect by reading Martin and Brooks.

Finally, the Examiner suggests combining Gray with Brooks and Martin. Gray, like Brooks teaches providing an inner receptacle (12) in which a plurality of vent holes (20, 20A) are disposed solely in a bottom wall (16). A fan (95) draws air out of the inner receptacle (12) via the vent holes (20, 20A) to deploy the trash bag (1). As shown in Gray's drawings, once the inner receptacle is inserted in the outer base member, the outer walls of the inner receptacles and the inner walls of the outer base members are in a tight interference fit. Indeed, after insertion and during operation, the only air cavity is that formed between the two bottom walls (13 and 16). In short, Gray teaches drawing air out of the bottom of the inner receptacle and inside the inner receptacle. Adding apertures to the Gray side walls would be senseless because the outer walls of the inner receptacles and the inner walls of the outer base members operate to form a seal preventing air to be withdrawn.

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However, as accompanying Figs. 6a-6c demonstrate, by drawing air from the bottom only, this often results in unsatisfactory results. Nevertheless, under the *KSR* inquiry, adding a plurality of apertures to the walls of an inner liner would result in "old elements" performing an entirely different function that that for which they were provided in Martin. Moreover, as shown in accompanying Figs. 7a-7d, the combination yields a more satisfactory result that uses the air pressure on the inner wall of the liner to prevent the vacuum from drawing the plastic bag down along the inner wall. This result could not and would not have been foreseen by or obvious to those skilled in the art.

Accordingly, the Applicant believes that independent claims 20 and 21 and all claims depending therefrom satisfy all of the requirements of 35 U.S.C. § 101, *et seq.* -- especially § 103(a) -- and are in condition for allowance. Withdrawal of the grounds for rejection is respectfully requested.

Examiner is encouraged to contact the undersigned to work out any differences which may be seen as impeding the allowance of this application.

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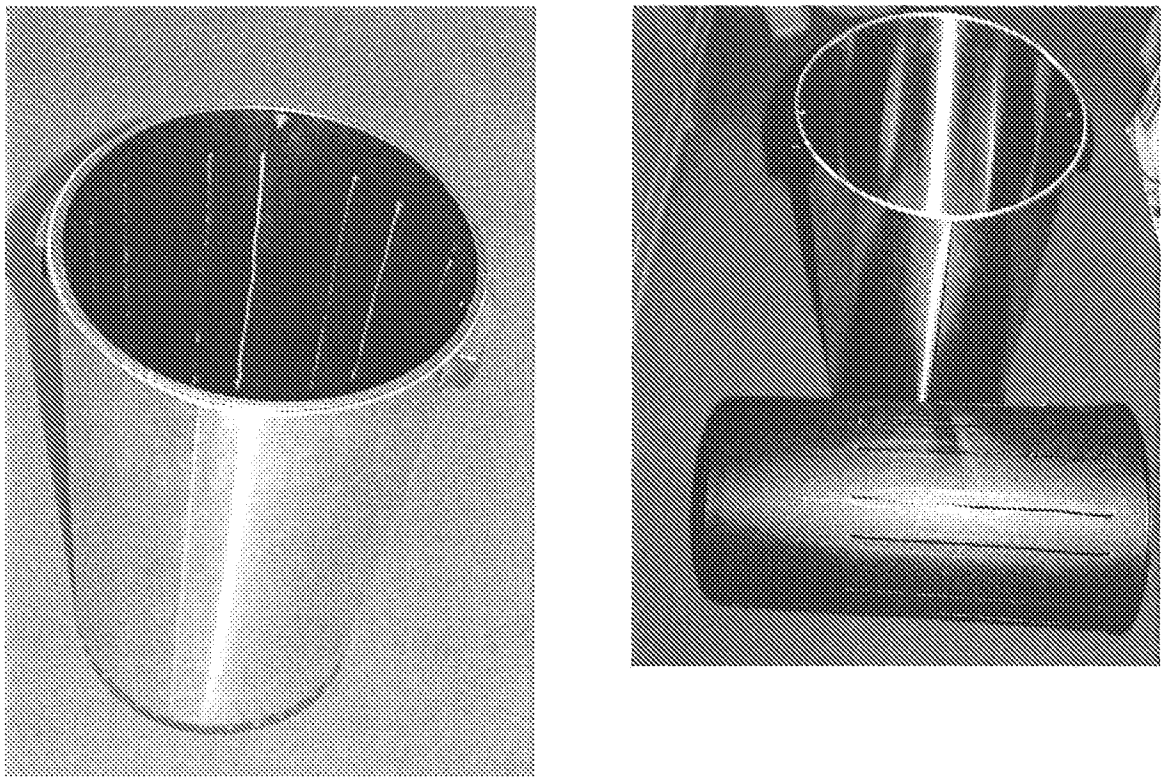

Fig. 1

This shows the configuration of the basic elements of a container and an inner liner, assembled on the left and apart on the right.

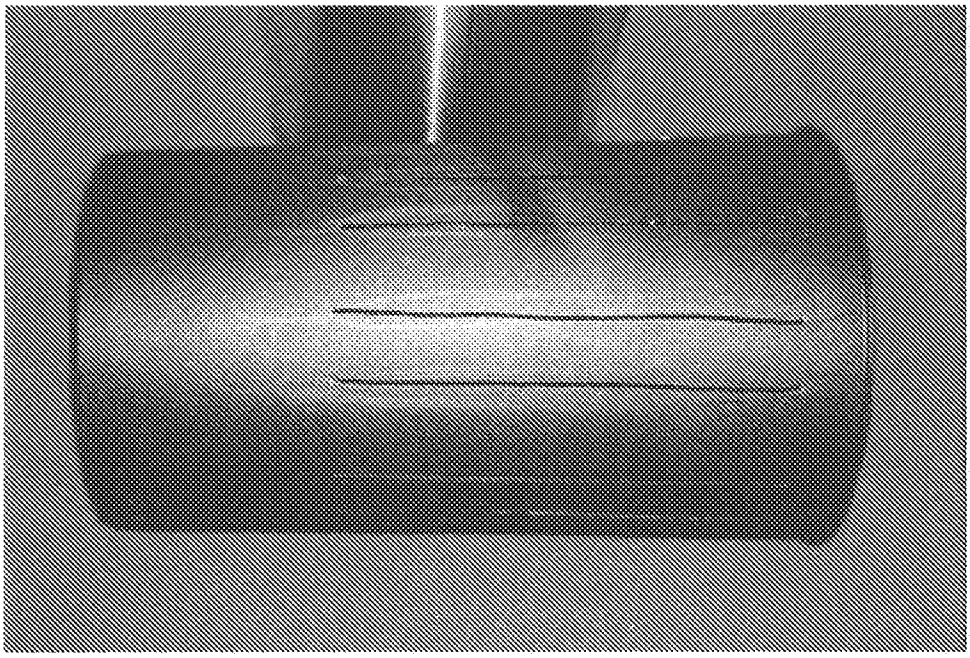

Fig. 2

The experimental liner close-up showing apertures extending from proximate the rim down toward the bottom.

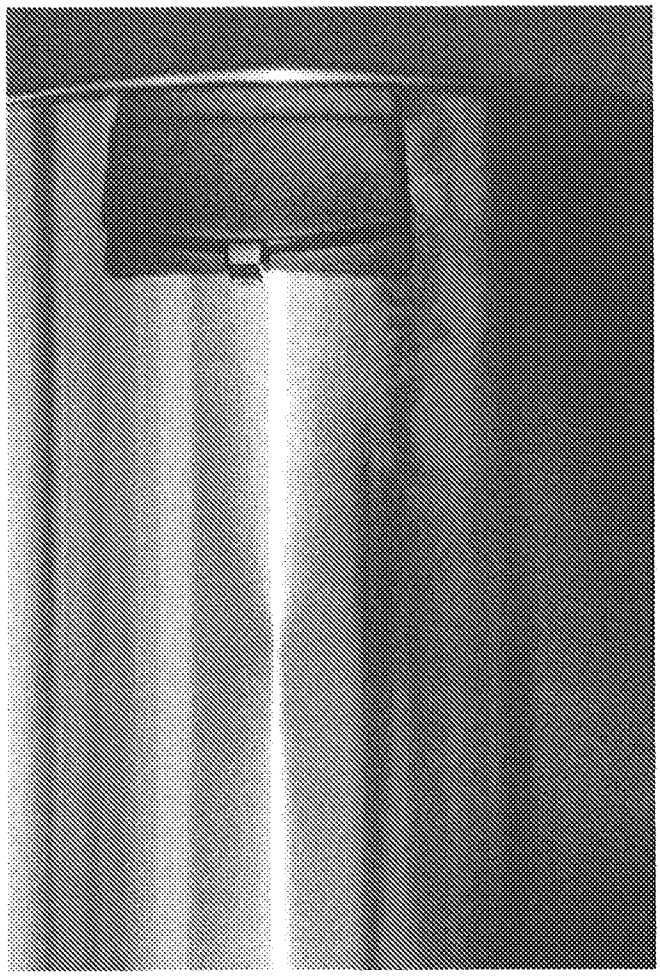

Fig. 3

Container mounted switch for withdrawing air from inside the liner when inside the container.

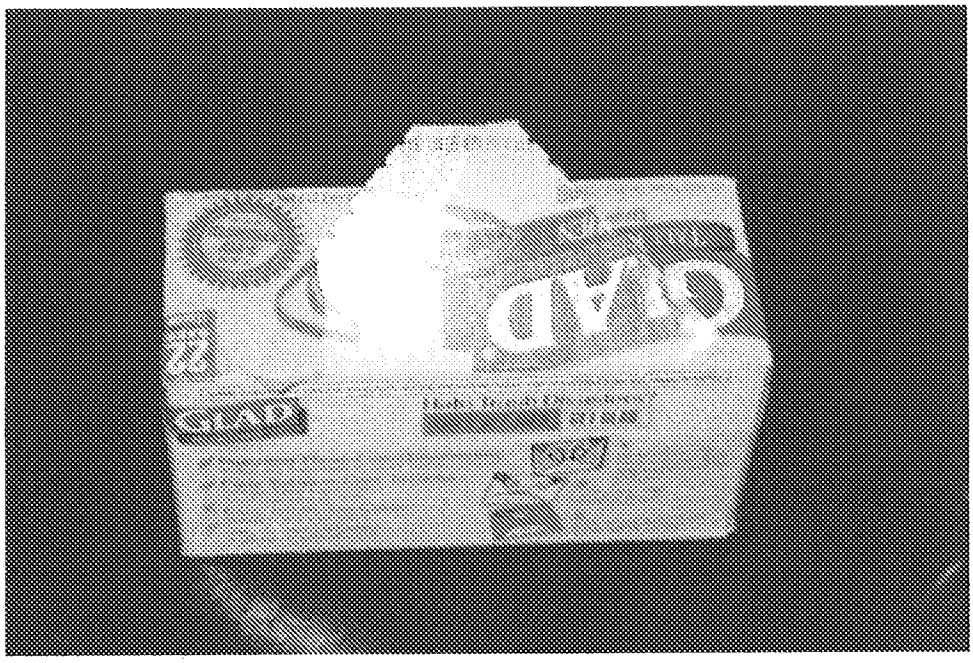

Fig. 4

A source of standard trash bags.

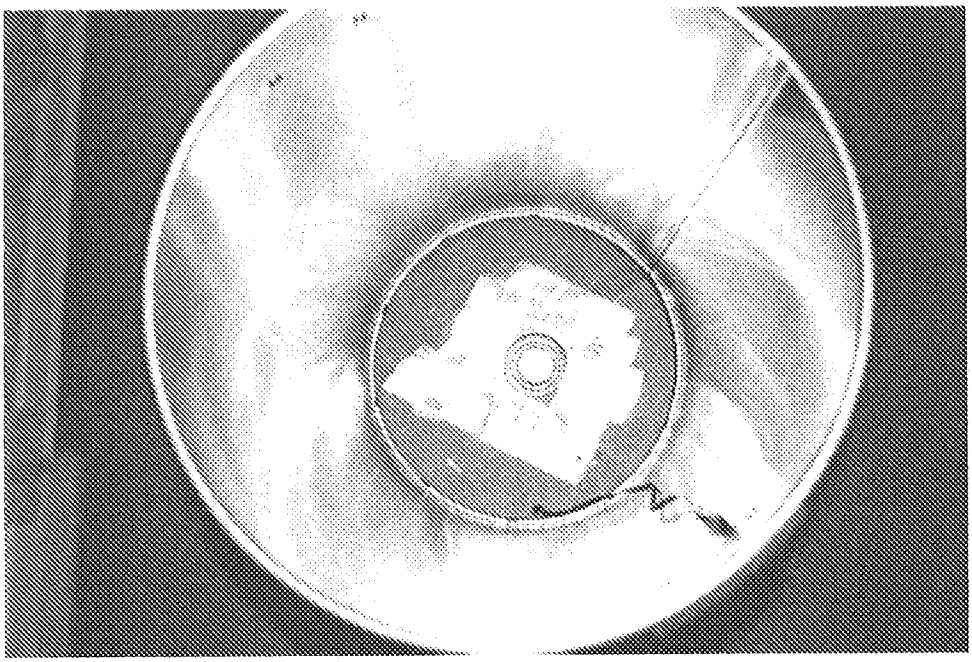

Fig. 5

The bottom of the container with an air exhaust or withdrawing means.

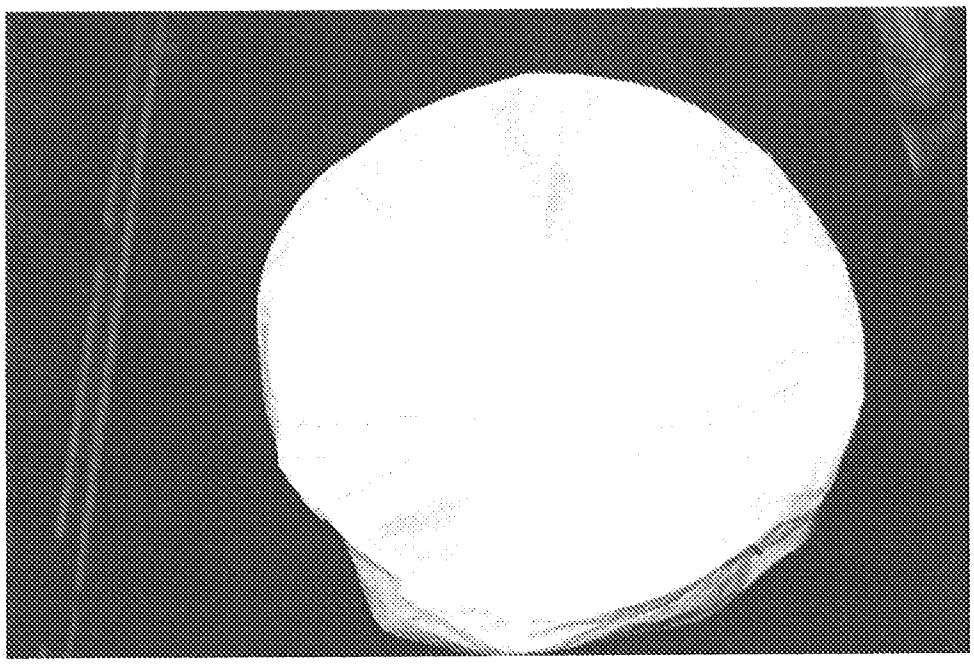

Fig. 6a

A trash bag mounted on a rim of the container without the liner inside.

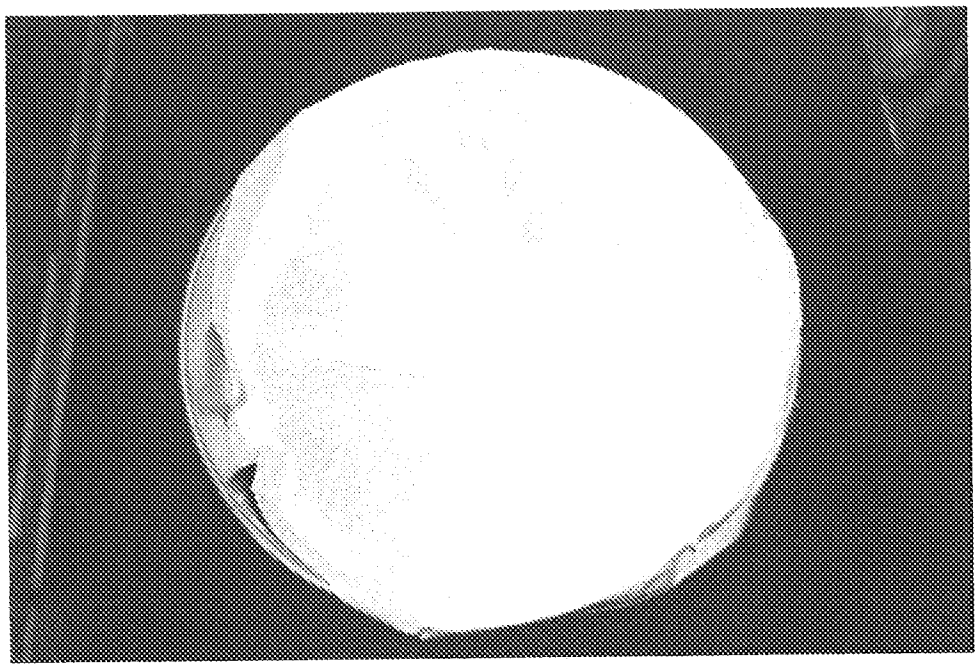

Fig. 6b

The trash bag beginning to be drawn into the container under the influence of a partial vacuum from air being withdrawn via the exhaust means in the container bottom. The trash bag is beginning to pull away from the rim causing vacuum to be lessened as well.

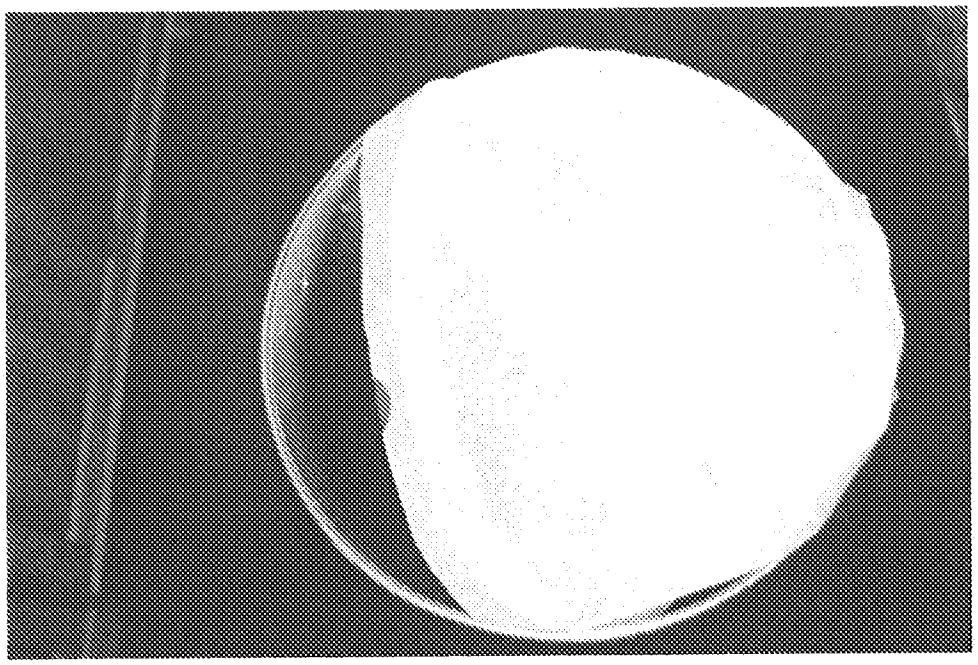

Fig. 6c

The bag separating from the container as the air continues to be withdrawn, making it impossible to draw the bag in farther under the influence of air flow and preventing a usable trash system.

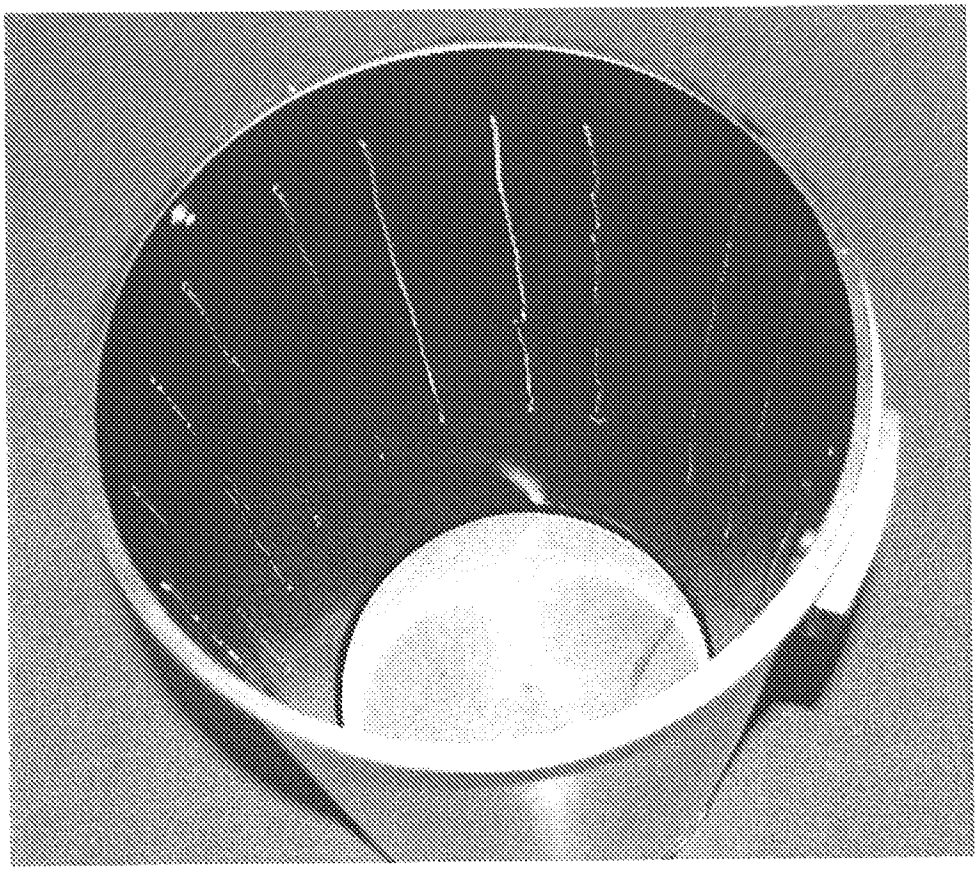

Fig. 7a

The container with the liner having the apertures extending from proximate the top or rim toward the bottom and inserted in the container.

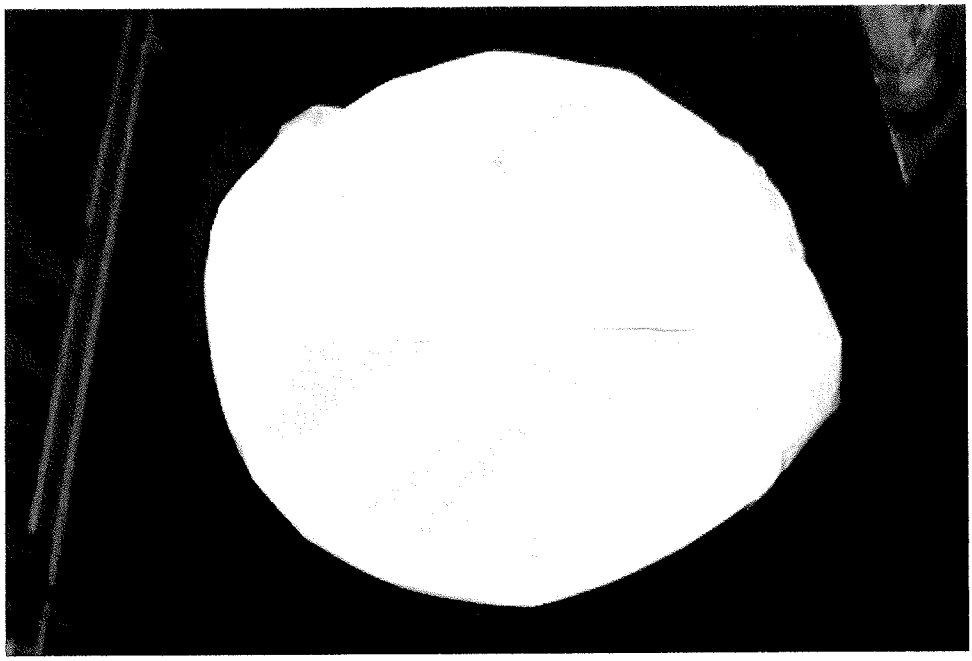

Fig. 7b

A trash bag inserted around the rim of the container as before.

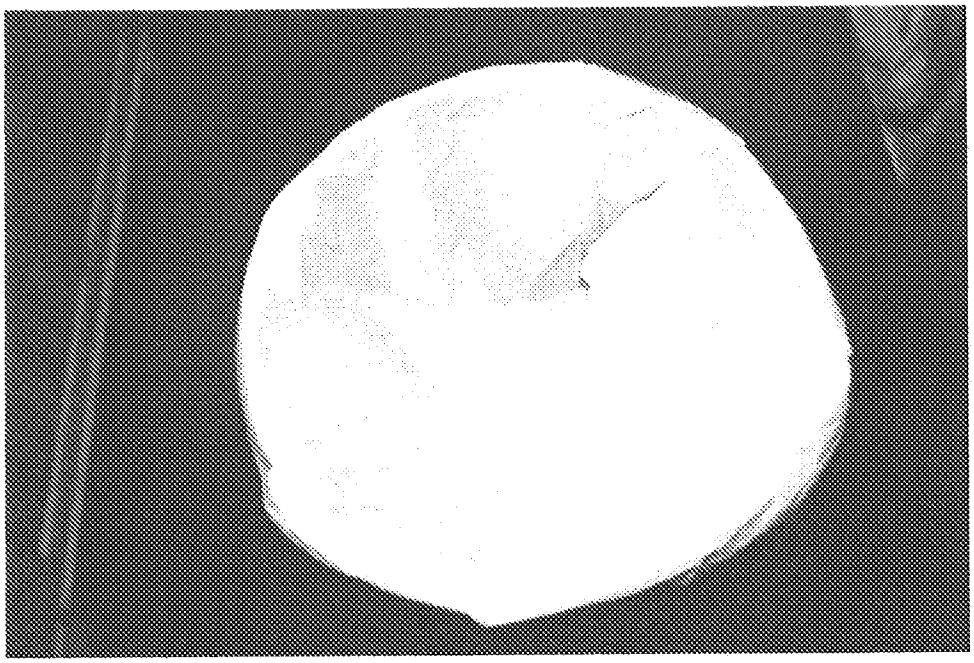

Fig.7c

The bag being drawn into the liner as the air is withdrawn but the air seal around the rim between bag and container and liner being maintained.

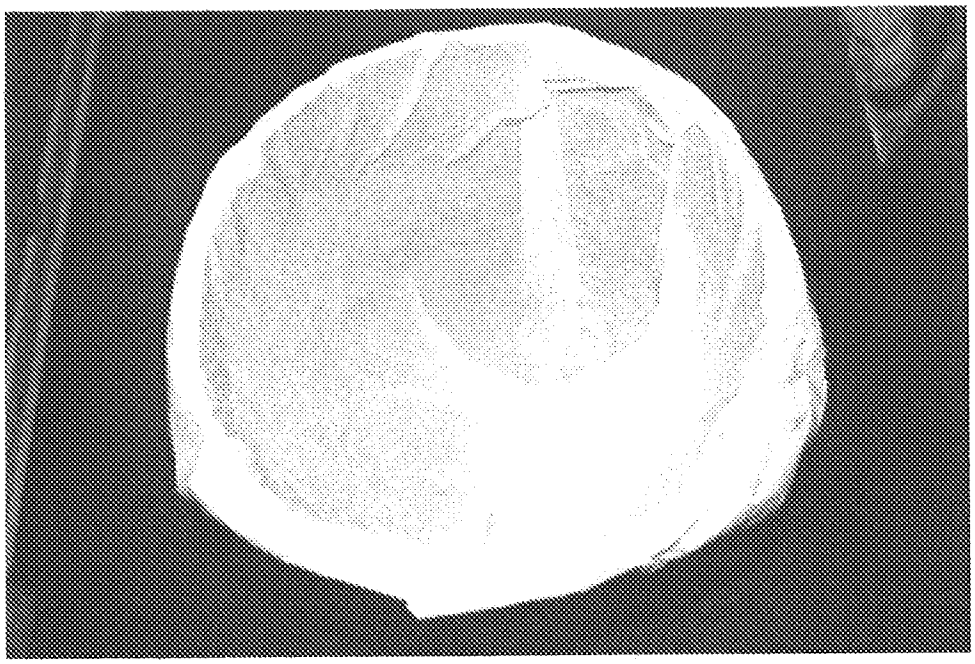

Fig. 7d

The bag being withdrawn further into the liner with the bag continuing to be held by the liner via vacuum pressure of air being withdrawn through the apertures.

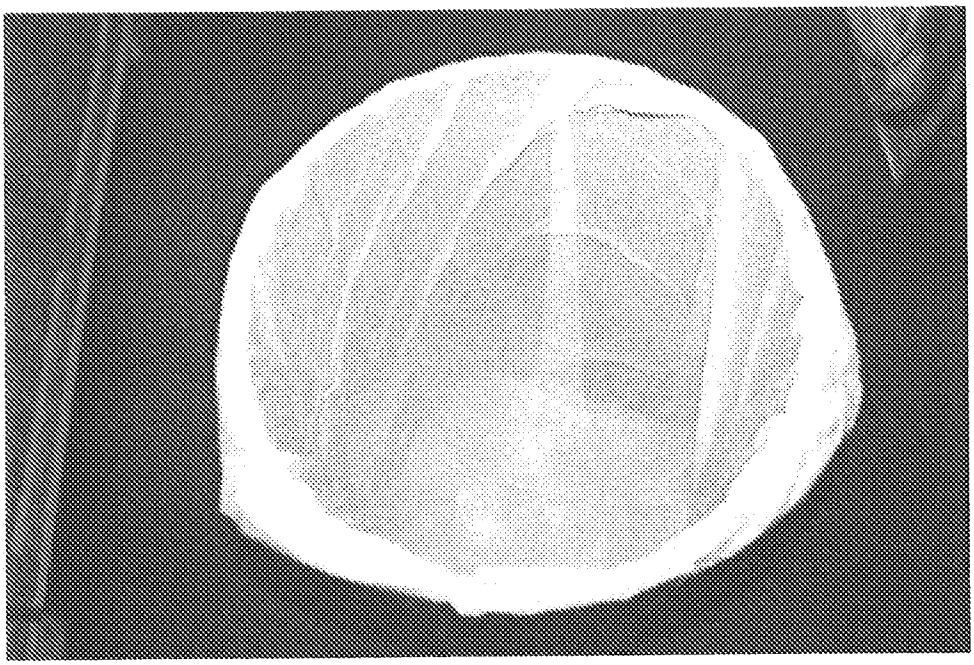

Fig. 7e

The trash bag fully drawn into the liner in the container with the sides of the bag pinned against the liner due to the vacuum forces created by withdrawing air through the apertures.

I hereby declare that, the undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made herein are my own knowledge and are true; and all statements made on information and belief are believed to be true.

Respectfully submitted,

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Date: September 11, 2009

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